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ABSTRACT

Urban school desegregation can be achieved through more sensible housing policies. Review of the current situation shows that some States (New York, Illinois, Michigan, Massachusetts, Maryland, and Minnesota, for example) have been able to integrate their schools by fostering the development of low and moderate income housing in particular urban areas. The shift in Federal policy away from urban school desegregation (and from urban problems in general) presents an opportunity for States to take up the slack. The rational use of housing subsidy programs can be of great assistance to desegregation goals. In States experiencing rapid development, regulations controlling growth and development may also be used to assist in these goals. Control over rules for use of State and local public employee pension funds--a new source of capital for home financing--provides another potential tool. (Author/GC)

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STATE HOUSING POLICY AND
URBAN SCHOOL SEGREGATION

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STATE HOUSING POLICY AND
URBAN SCHOOL SEGREGATION

LEC-83-13

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ABSTRACT

This paper explores ways to achieve urban school desegregation through more sensible public housing policies. Orfield reviews ways in which some states have achieved better integrated schools individual decisions on location of residences. He observes shifts in federal policy away from urban school desegregation, as well as urban problems generally, and cautiously applauds the potential for states to take up the slack. The rational use of housing subsidy programs can be of great assistance to desegregation goals. In states experiencing rapid development, regulations controlling growth and development may also be used to assist in these goals. Control over rules for use of state and local public employee pension funds -- a new source of capital for home financing -- provides another potential tool.

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STATE HOUSING POLICY
AND URBAN SCHOOL SEGREGATION

by Gary Orfield
September 1983

THE STATE ROLE IN
EQUAL EDUCATION OPPORTUNITY

The Evolution of State Responsibility

Since the late 1960s state governments have claimed their constitutional birthright as central actors in making education policy. States have gained the confidence, of the public and even of some liberals. Most believe that state governments can play a major role in solving some of society's most deeply rooted and threatening problems--the social problems of the great metropolitan centers. Many big city advocates, who at the height of the Great Society in the sixties dismissed the statehouse as incompetent and provincial, now hail state officials as leaders and innovators, who will provide more services, more efficiently and economically, with greater sensitivity to local conditions.

During the sixties, opponents of federal civil rights laws and court decisions advocated states rights. Southerners, especially, stridently argued that race issues must be left to the states; civil rights supporters cited the fourteenth amendment, and argued that seventeen states, all with a history of laws requiring segregation, made federal intervention necessary. Indeed all but a handful of states had done nothing to protect minority group members against segregation.

Today, however, attitudes towards states have changed. Each of the last four presidents has argued that the federal government has overextended its bureaucracy and its patterns of social regulation. The Nixon, Ford and Reagan Administrations have made active efforts to turn over federal funds and responsibilities to state and local governments. Both Nixon and Reagan made the programs they called "New Federalism" a central part of their domestic policy. President Carter, a former

governor, shared this belief in the importance of the state role and largely limited his urban policy to temporary aid programs and modest regulatory changes.

This is not just rhetoric. During the past decade, far greater discretion in urban programs has been given to the states through revenue sharing, block grants, and administrative deregulation of federal grant programs. A major retreat in federal civil rights enforcement--the most striking change in federal policy since the Johnson Administration--has meant that enforcement of federal constitutional rights has been increasingly left to state and local officials. It has become obvious that decisions by state officials will do much to determine whether or not American metropolitan areas and their schools will remain racially segregated.

State governments have changed in response to these changes in federal policy. Federal civil rights laws, court decisions, social movements, increasing black political power and state legislative reapportionment have all had an impact. In fact, much of the new power for prohibiting discrimination is now a state responsibility.

Many states have expanded on their own as well, initiating new programs and becoming ever more important to local governments and school districts, which rely on the states for growing parts of their budgets. While the federal bureaucracy stopped growing in the late sixties, and actually diminished during the Reagan Administration, state agencies mushroomed during the seventies and early eighties. The professional qualifications of state employees in many agencies were notably upgraded. Unquestionably, the states had increased their capacity to act on important issues. Potential state influence over urban institutions is now at an historic high point.

With power, of course, comes responsibility. State officials who have often denounced federal judges and bureaucrats for their "interference" with local governments and local practices, now bear a larger measure of the burden for meeting the requirements of the constitutional guarantee of "equal protection of the law." In the field of education, this puts state officials into the midst of a number of sensitive racial issues, the most important of which remains urban school desegregation. State officials paying serious attention to those responsibilities will soon discover the impact of other state agencies, particularly in the fields of housing and community development both of which are well developed at the state level. So far, there has been

very little discussion of the relationships among the actions of the various state agencies. School officials need to give serious thought to this problem.

The Nature of the School Problem:
Segregation and the States

As states expand their role in education and other special policies, they must necessarily address many of the most difficult and complex issues of segregation, those involving large cities and metropolitan areas. Since the early sixties there has been dramatic progress in desegregation of schools in rural and small town areas, but very little in many big cities. What remains is extremely important because, particularly outside the South, the vast majority of black and Hispanic children are in urban centers./1\

At the state level, the picture for the nation is one of great diversity. In the past, most serious efforts to desegregate have resulted from federal action, usually by the federal courts. In southern and border states, where federal judicial intervention has been most intense, changes have been most sweeping. The South, which mandated segregation by law until 1954, had become the nation's most integrated region by 1970. By 1980 black students in the South were only about half as likely to be in intensely segregated schools as black pupils in the Midwest and Northeast./2\

A number of non-Southern states have very few minority children and very little segregation. In some states desegregation of just a few schools in a single city can substantially end segregation for the entire state. In other non-Southern states desegregation plans are in place, little segregation remains, and attention now must focus on improving the quality of operation of physically desegregated schools and updating plans in a timely fashion so that the gains are not lost as residential patterns evolve. Still other states have desegregated some areas but have substantial problems remaining.

Finally, there are a few states with extremely high levels of segregation, little progress, and demographic trends that promise to make isolation more severe. Unfortunately the states in this last category serve very large numbers of black and Hispanic students. Usually most of the black and Hispanic students in these states live in highly segmented, highly fragmented,

large metropolitan areas.

Table 1

STATES WITH HIGHLY SEGREGATED
SCHOOLS FOR BLACK PUBLIC SCHOOL PUPILS, 1980

State	Black Enrollment 1980	% Blacks in 90-100% Minority School	% Whites in School Attended by a Typical Black Student
ILLINOIS	430,000	67.7	19.0
NEW YORK	484,000	56.2	23.0
MICHIGAN	314,000	51.0	22.5
NEW JERSEY	227,000	50.0	26.4
PENN.	231,000	49.0	29.3
MISSOURI	113,000	44.2	34.1
CALIFORNIA	401,000	41.4	27.7
LOUISIANA	323,000	36.9	32.8

Source: U.S. Dept of Education Data

Among the ten states with the largest black enrollments, only North Carolina and Florida managed to place the typical black student in a predominantly white school in 1980. This was doubtless due to county-wide desegregation in most Florida metropolitan areas and in Charlotte, North Carolina's largest urban center. Of all of the states with significant black enrollments, the most striking gains in desegregation during the seventies took place in Kentucky and Delaware, following the implementation of court orders merging and desegregating schools in their largest cities. In Delaware the percent of black students in majority white school rose from 41% in 1968 to 95% in 1980; in Kentucky the increase was from 37% to 92%!

Very few states with large black enrollments became more segregated during the seventies. Unfortunately, the two major exceptions are home to a great many Blacks--New York and New Jersey.

If the problem of segregation of Blacks has received only modest attention from the states, the issue of Hispanic segregation has been ignored. Hispanics are becoming more segregated in all regions and in all states where they are present in substantial numbers, except Colorado. On the average, Hispanics attend schools with even fewer white/Anglo classmates than did Blacks by 1980. The trend is toward more isolation of this very rapidly growing minority population. More than two-thirds of all Hispanic students in the United States live in California, Texas, and New York. None of these states have substantial state desegregation policies. The remainder of the Hispanic population is concentrated in New Mexico, Illinois, Florida, Arizona, New Jersey, and Colorado. Some of these states have strong desegregation policies; others have none.

Some of the states with the strongest record of leadership in school desegregation nonetheless remain the most highly segregated educationally. For example, the Illinois State Board of Education required desegregation without proof of intent to segregate as a condition for the receipt of state aid funds. From the middle seventies to 1982, when the state supreme court struck down the board's regulations,³ state authorities succeeded in desegregating many of the smaller cities and suburban districts in Illinois. Many of those plans remain in effect, but the large urban areas remained stubbornly segregated. New Jersey and Pennsylvania have also been known for aggressive actions against districts with segregation problems, but have failed to affect the isolation in metropolitan areas. The California Supreme Court ruled that the state

constitution forbade even de facto segregation, and this policy prevailed until the state constitution was amended./4\ Despite these efforts, all of these states are among the nation's most segregated.

These states must deal with high concentration of minorities, intense residential segregation, and severe fragmentation of school districts within metropolitan areas. In Illinois, for example, about two-thirds of the black and Hispanic students in the state go to school in Chicago with about only one-sixteenth of the state's white students. Only about 16% of the students in Chicago are white, and demographic trends suggest that a large fraction of them will be replaced by the rapidly growing Latino population. If all schools in Chicago were desegregated according to the old state guidelines requiring all students to be within 15% of the district wide racial proportions, schools could be considered fully integrated if they were from 1% to 31% white.

Calling schools that are one or two percent white "integrated schools" seems senseless, especially where other localities consider segregated a school that is 50% Hispanic or 50% black and 50% white. True desegregation in the nation's most segregated cities is simply not possible without attention to broader issues, including housing segregation and the need for city-suburban desegregation policies.

Chicago is an extreme case, with respect to the segregation of both housing and schools, but the same general problems are present in most metropolitan areas with large minority populations, high segregation of housing and fragmented local government. In such circumstances, it is not possible to deal with the problem of segregated education without considering the directly related questions of housing and urban policy. Local school finance is based on taxation of local residences (and other property) and segregated housing patterns tend to concentrate minority students in districts with declining resources. When residence determines educational opportunity, any serious analysis of educational equity must consider policies that alter either the residential patterns or the distribution of resources and services among residential communities.

The Growing Importance of the States In Urban Policy and Housing

The Turn Toward the States

Since the enormous expansion of federal aid programs during the sixties, there has been a strong and very important movement to strengthen the role of state governments in the control and management of these urban programs. Governors and state officials reacted negatively to the development of closer direct federal-to-city ties, demanding that federal agencies work through the states. Federal aid for community and regional development nearly tripled between 1965 and 1970; federal aid to urban mass transit rose 900%; funds for schools educating poor children rose even more rapidly./5\ What was surprising was that all of the Presidents elected after the mid-sixties were concerned with excessive federal power and three of them-- Nixon, Ford, and Reagan--actively worked to increase state power.

It was clear by the late sixties that, even without redistribution of power in grant programs, states would face many decisions critical to the viability of urban centers. In response to signs of rapid decline in central cities, the Advisory Commission on Intergovernmental Relations in 1967 recommended a wide range of state actions including full funding of local education budgets, increased mass transit aid, and consolidation of less vigorous units in local metropolitan government./6\

The Federal Role, 1969-1973. The Nixon Administration initiated the largest increase in the state role. After unprecedented expansion of federal urban assistance and civil rights enforcement, the Nixon period saw a corresponding shrinkage of the federal role. Practically, and politically, another course was available. The Kerner Commission had just reported that the country was moving toward irreversible racial polarization and separation and urged new, more vigorous action to avert this result. Then the Supreme Court decided to require busing to remedy urban school segregation. The administration had inherited the largest subsidized housing construction program in the United States history and enforcement responsibility for the sweeping provisions of the 1968 fair housing act. Despite these opportunities, the Nixon Administration ultimately failed to support integration. Instead, the President imposed a moratorium on federal housing subsidies in 1973./7\ He strongly rejected HUD

Secretary George Romney's efforts to use federal leverage to produce more integrated suburbs./8\ The White House strongly opposed busing, fought it in the Supreme Court, and refused to enforce the school desegregation requirements of the 1964 Civil Rights Act./9\ When asked about the problems of the cities, Administration leaders would respond that the states could handle them better.

The Nixonian "New Federalism" meant sending federal funds to states and localities through unrestricted revenue sharing and block grants. President Nixon abolished the White House Urban Council and expressed his determination to end federal control over "issues of municipal housekeeping that are most appropriately the business of a city council."/10\ Urban problems, he said in 1971, simply cannot be solved by Washington."/11\ In his 1972 reelection campaign he argued that the programs of the sixties had actually hurt cities and that only strengthening local levels of government would help./12\ After a landslide reelection he worked even more vigorously at curtailing civil rights activity and eliminating or reducing the federal role in urban and housing programs.

The Federal Role, 1974-1976. The Ford Administration continued this policy. One of its major actions was to replace a variety of federal urban and busing programs with Community Development Block Grants and a Section 8 housing subsidy program, which operated through the private housing market./13\ In its 1974 urban policy report, the Ford Administration recognized that various federal programs, including federal grants for interstate highways, and water and sewer construction promoted widespread suburbanization. The federal role it recommended for the future, however, was little more than monitoring local trends, simplifying federal programs, and encouraging coordination at the state and local levels./14\ The Ford Administration viewed the states optimistically:

States are the only institutions that combine metropolitan and nonmetropolitan-wide perspective, decisive powers to override local actions adversely affecting larger interests, and sufficient local knowledge and local political roots to make proper use of these tools./15\

Ford officials recognized that states had real power to control problems such as sprawl, isolation of the poor, and minorities, and it also saw signs of real leadership. States were showing initiative in land use

control, industrial site location, and housing. State mobilization in housing was especially dramatic:

As of 1960 there was only one State housing finance agency In the late 1960's, 11 more were established As of November 1974, 33 states . . . have enacted legislation to establish housing finance or development agencies and most of the remainder of the states are considering such legislation./16\

State housing agencies were playing an important role in financing and directing the development of federally subsidized housing programs. Some administered these federal programs and some exercised control through strong civil rights policies. A growing list of states were enforcing state fair housing laws; a Ford urban policy report suggested that states might resolve "far-reaching housing location problems to reduce disparities between suburbs and central cities."/17\ This hopeful view of state leadership on housing and fair housing extended to the issue of metropolitan fragmentation. The report pointed to Minnesota policies on metropolitan tax sharing and increases in county government powers in some states./18\

As the Ford Administration began to implement urban block grant programs, it looked to the states for leadership, particularly on issues the federal government refused to address. Very few federal strings were attached to the new block grant or federal housing subsidy programs. The states could take the initiative in solving their own severe urban problems.

The Federal Role, 1977-1980. As the only Democratic President elected since the Great Society period, many observers expected President Carter to sharply change direction in urban policy. Instead, his period brought little legislative change; the basic policies inherited from Nixon and Ford received acceptance. By the end of the Carter Administration, there would be increased administrative regulation but declining money for urban programs.

The Carter policy called for a "partnership" with the states: "Beginning in the 1960s . . . a growing number of states have initiated attempts to intervene in their patterns of urban development by using the full range of powers available to them in order to meet environmental, social and economic objectives."/19\ The report saw a "quiet revolution" in state urban policies, pointing to

the state strategies being developed in Minnesota, Michigan, and California./20\ The report continued:

While a majority of states have yet to undertake a new and comprehensive concern over urban development, a large number have adopted policies incrementally that are intended to help distressed central cities. This trend represents a significant departure/21\

Although Carter policies differed from Republican policies by recognizing the need for federal as well as state and local leadership, states were recognized as very important actors./22\ By 1980 Carter was reducing expenditures for both urban and housing programs. Though recognizing the severe problems of rapid city economic decline, its serious racial implications, and the persistence of widespread residential discrimination, this Democratic interlude brought few federal interventions. The Administration's bill to provide even modest powers to HUD to enforce a weak fair housing law was killed in the Senate shortly after the election of President Reagan. There were few monuments left standing to the urban policy of the Carter Administration.

The Federal Role, 1981-1983. Wishful thinking in the Carter Administration and its predecessors about state and local solutions had almost replaced federal urban policy. While the Great Society represented an unprecedented extension of the federal presence in cities and racial issues, the Reagan Administration represented the opposite. The importance of the states, recognized by all, now became absolutely critical. Reagan assailed federal urban programs which had made "our citizens feel they've lost control of even the most basic decisions about essential services of government."/23\

In recent years, the Federal Government assumed many responsibilities better left to State and local officials. State and local governments have become administrative arms of Federal agencies to an alarming degree, while the Federal Government has swollen to unmanageable proportions. Policymakers have become more remote at the same time that Government itself has become more intrusive./24\

The Administration's policy was "to devolve the maximum feasible responsibility for urban matters to States and through them to their local governments."/25\ Turning

things over to states would "eliminate the wasteful proliferation of administrative structures and paperwork" allowing state and local officials to "adapt programs to local circumstances."/26\

Reagan's team viewed federal regulations as needless and costly intrusions on the work of local and state authorities who were "every bit as compassionate and competent and caring as officials in Washington, D.C."/27\ There was no mention of any federal responsibility to protect civil rights and policy statements proclaimed that cities would function better if federal regulations were simply eliminated./28\ The state governments would provide original and creative responses to local problems:

[I]t is State governments that are capable of mobilizing the broad bases of support to tackle the economic, financial, and social problems that affect the well-being of the State as a whole as it competes with others to attract and retain residents and businesses./29\

The Reagan philosophy was not merely rhetorical. The 1981 Omnibus Budget Reconciliation Act, a sweeping Reagan budget reform law, sharply altered the Community Development Block Grant program. States assumed control of the urban block grants to small cities; federal control over grants to large cities and suburbs diminished. The legislation also greatly diminished leverage for civil rights enforcement, virtually eliminated new construction funds for subsidized family housing, and increased barriers to scattered site housing strategy. The Reagan budget eliminated planning funds that had been used to plan regional cooperation in the spreading of subsidized housing in a less segregated fashion. (During the first year funds paying the cost of school desegregation plans were put into a block grant to the states without any requirement that they be spent on desegregation, thus transferring still another part of the responsibility for dealing with the results of housing segregation to the state capitals.)

After a decade of serious talk about the importance of state leadership in urban policy and civil rights, the Reagan concept of "new federalism" met the promises of the earlier Nixon program and went beyond in a drastic retreat from federal responsibility. The gambit of federal regulation diminished in urban policy and the role of the states was substantially increased. It was time to test the premises of those who had been arguing

for state power.

Skepticism of Urban Officials

The decision to increase the role of the states in urban policy was not supported by city officials or urban policy experts, who tended to prefer a strong federal-city relationship. As the Reagan reforms were being formulated in 1981, spokesmen for the cities saw not flexibility and positive policies as the result of the changes, but rather the necessity of dealing with a different and less sympathetic group of officials. "Most states," according to National League of Cities Executive Director Alan Beals, "have very little experience in this area, while the relationship between HUD and small cities has been a satisfactory one for many years." He concluded that "nothing in the historical record provides any basis for regarding the States as the appropriate recipients of community development block grants."/30\ "Programs provided to cities should not have the states substituted as the delivery agent."/31\

The representatives of big city and county governments had similar reactions. U.S. Conference of Mayors', Executive Director John Gunther told a congressional committee that the new policies "were drafted totally without consulting local government."/32\ The President's budget, he said, proposed a state role cities did not want and a cut of more than a third in real dollars (uninflated dollars) for such programs. When turning authority over to the states, Congress did not target federal aid on the poor. Citing recent research by the Advisory Committee on Intergovernmental Relations, Gunther pointed out that only a small minority of states targeted their urban and economic development programs to such areas. "The record is poor," he said, "and the mayors are justifiably concerned that the record will not improve dramatically if states are given no-strings federal funds."/33\ The National Association of Counties was opposed to a policy under which "the States are given complete control with minimal consultation with local officials."/34\ State officials face many skeptics.

Expansion of State Housing and Urban Activity

Even as the successive national administrations were looking hopefully to the states and local officials were viewing the rise of state influence with distinct

suspicion, there were major changes under way in the state capitals. The legislatures had been reapportioned in the sixties, weakening rural power, the executive branches of many state governments had been strengthened by changes in state constitutions, state rather than federal courts and legislatures were providing the leadership in the school finance reform movement, and some states were actually providing leadership and new ideas in urban policy. During the period from the late sixties to the late seventies, many states created new institutions and staffs concerned with urban policy. Although these changes often fell far short of what the cities believed they needed, there was considerably more potential for state leadership in urban policy than had existed a generation earlier. These trends deserve the closest attention in assessing possible state contributions to urban integration policies.

State aid to cities and to school districts increased rapidly during this period. Revenue to city governments from states rose from \$2.7 billion in 1965 to \$6.1 billion in 1970 and \$15.9 billion in 1980. The most dramatic growth was between 1965 and 1975. State aid to public schools grew from \$9.9 billion in 1966 to \$16.1 billion in 1970 and \$40.2 billion in 1979. In 1980 big city school districts with more than 50,000 students received \$11.0 billion of their \$19.8 billion in general revenue from the states and another \$.5 billion directly from the federal government. \$2.0 billion came in the form of federal aid administered by state officials./35\

These were the figures late in the Carter Administration, before the sharp reduction of the direct federal role and the increased importance of the states. Obviously, the states were very powerful contributors to local finance and had made a significant effort to expend their contributions, particularly to the public schools. With regulation and targeting, resources of this scale could surely force local change.

Development of State Housing and Urban Agencies

An analysis of the capacity of state agencies to influence problems of housing, urban development or urban discrimination in the early sixties would have been extremely simple. With the exception of a very few states, most notably New York, there were no basic state institutions with the expertise or experience to make any significant contributions.

During the late sixties and early seventies, however, there were major changes. Although states did not reach

full capacity and determination to act, most did move from total absence of policy and expertise to the creation of institutions and expertise providing significant potential leverage on urban problems. Some states did in fact realize full potential, at least with regard to certain urban problems. In any case, the new potential opened new options for urban policy. Those options are very important for the discussion of state civil rights policy.

The most dramatic institutional developments came in the field of housing. Taking advantage of federal tax incentives, states developed ways to create important state housing agencies and have a substantial impact on both public and private housing development decisions without any cost to the state budget. This became extremely popular with states. More importantly, it meant that almost all states gained the capacity to operate some significant housing programs and to have a positive impact on housing integration.

Most major state innovations emerged in response to the lack of reasonable interest rates for investment in housing. This, plus other stresses on the traditional sources of mortgage funds, especially savings and loan institutions, and the development of federal housing subsidy programs that were not attractive to developers without an additional subsidy from the state government, all combined to spur production of a variety of new housing finance mechanisms and agencies.

The most common device was the issuance of tax-exempt state mortgage bonds, to borrow funds for housing well below the market rate. Usually the state would create a new and independent agency to run the program. The first such agency, the New York Housing Finance Authority, began operation in 1960. By the mid-seventies a substantial majority of the states had similar agencies in operation. Optimists interpreted this as a sign of new state attitudes towards and capacities to deal with urban problems.

A large share of the costs were ultimately borne by the federal government in lost taxes. The states could borrow the money at a very low rate of interest, because of the tax exempt status of such bonds, pay for and lend it out at a higher rate, but still well below market rate. The "profit" often supported the agency./36\

Publicly supported housing programs of the period depended upon private construction or housing subsidized by a federal interest subsidy or a rent subsidy. In either case, the costs of development were reduced where

state loans were available, and developers were eager to work with state agencies. As a result, state agencies gained the power to establish conditions on the nature of the developments. These new state agencies also influenced the single-family private housing market. Here they offered loans at interest rates well below market levels at a time when many families were squeezed out of the housing market by interest costs. Since demand for these loans was far greater than supply, state housing officials gained yet another potential opportunity to influence housing opportunities through policies creating priorities for the loans.

Most state housing agencies had far-ranging powers. They were authorized, for example, to study housing conditions across their states and recommend programs. They had powers to set priorities for loans. Some had authority to directly build or administer subsidized housing. In one state, for example, the agency built homes on state property, and used FHA subsidy programs to sell them off to moderate income families./37\ Compared to the other actors in the subsidized housing field -- public housing authorities and local governments -- the state agencies had one crucial advantage: they were not limited by municipal boundary lines and they were free to make loans anywhere in the state. They were, in fact, surprisingly successful in financing subsidized housing in suburbs, where a substantial majority of their early projects were located./38\

The problem was not the absence of powers, it was an unwillingness to use them, particularly with respect to regulation of sensitive issues. State housing agencies became large and successful operators in the stimulation of subsidized housing, but few pursued goals of integration, and simply deferred to developers and HUD. Most often mortgage money for private home purchase was made available through private lenders on a first come-first serve basis within broad limitations on eligibility of the borrower. Of the early housing agencies, only Massachusetts had an explicit policy concerning eligibility of the housing itself. Massachusetts required a fixed minimum percentage of a project to be rented to low income families; upper income tenants would, in effect, subsidize low rental units for low-income families in the same development. These policies were aided by a unique state law prohibiting total exclusion of low and moderate income rental housing from suburban municipalities./39\

In terms of administrative skill in operating housing programs, state governments established a surprisingly

good track record early in their programs. They processed paperwork faster than their counterparts at HUD and they avoided the scandals in the subsidy programs that plagued HUD in the early seventies, when large scale fraud and abandonment were revealed, particularly in the Section 235 low income homeownership program. While President Nixon shut down federal programs, pointing to widespread misuse, the 66,000 units of rental housing financed through state programs remained intact and less than 1% of the Section 235 loans issued by states had gone sour./40\ This record reinforced the belief that states could run certain kinds of housing programs well.

SUCCESSFUL STATE INITIATIVES AND HOUSING SEGREGATION

A Case History: New York

During the early seventies it seemed possible that there would be far more dramatic forms of state housing programs. Much attention focused on the New York State Urban Development Corporation, an agency with unprecedented powers for housing development, created by the state legislature following the assassination of Martin Luther King, Jr. in 1968. The agency had extensive authority to rapidly assemble sites for job development and to "plan, finance and coordinate industrial and commercial developments for persons and families of low income and with public services and mass transportation facilities./41\

The UDC had land condemnation powers, exemption from local regulations, property tax exemption on residential projects, broad bond issuing authority, ability to buy and sell property, power to create subsidiary corporations, and authority to operate federal assistance programs. It was "a multi-purpose public authority empowered to act out any or all of the roles associated with urban development from acquisition to management."/42\ In a state where urban renewal and housing efforts had been plagued year after year by delays, red tape and overlapping jurisdictions, the broad powers of the UDC could greatly ease the expense and risk of a developer./43\

The new agency was uniquely positioned to take advantage of massive new federal subsidies under the 1968 housing act and it captured a large majority of available funds in the United States for its new rental subsidy

program./44\ "By December 31, 1970, UDC had in construction or planning 45,438 units of housing . . . as well as commercial and industrial developments around the state."/45\

Unlike most state housing programs, UDC had the explicit goal of promoting diversity in housing communities, and it had the power to override local resistance. The agency could override suburban zoning and land use requirements and appeared insulated from local political pressure. Its goal was the production of housing with 20% low-income and 10% elderly tenants. But it soon experienced difficulty obtaining sufficient federal subsidy commitments./46\

The extraordinarily rapid start of the UDC programs and its sweeping goals aroused interest in many states. The possibility of similar initiatives in other areas, however, declined sharply when the UDC experienced severe political and economic problems, lost its power over suburban zoning the first time it tried to make any substantial use of it, and, in 1975, defaulted on some of its notes in the largest governmental bond default since the Depression. The UDC depended upon federal housing policy, which fluctuated sharply and unpredictably. The President's sudden moratorium on housing subsidies in early 1973 was a particular shock though its impact on New York was mitigated later. The agency was hit by an extraordinary increase in construction costs during the period of its greatest activity and was soon in fiscal hot water. When it attempted to construct small amounts of subsidized housing in some New York City suburbs, the legislature and the governor responded to the resulting political uproar by removing its power./47\

The agency that was initially hailed by the Nixon Administration and others as showing the way toward a comprehensive state urban policy ended up illustrating some of the limitations facing states. Although states do not have any control over federal economic policy, appropriations and regulatory changes, their programs can be devastated by them. State politics rarely sustains strong regulatory policies fiercely opposed at the local level.

Although the grandiose visions of New York's UDC have long since been forgotten in urban policy discussions, the state housing agencies continue to operate. Some of those agencies as well as an assortment of other state offices have continued to explore policies that could have a positive impact on urban segregation patterns. These deserve attention in assessing the contemporary

possibility of a more assertive state role.

A Review of Other State Initiatives

Illinois

A number of states have achieved a high rate of success in stimulating subsidized housing construction. In Illinois, for example, 56 projects in metropolitan Chicago had received support from the Illinois Housing Development authority by early 1982. Many developments combined subsidized and market rate units. The total effort produced some 13,000 new housing units, most in the suburbs, one-third of which were subsidized./48\ In 1983, with the federal construction programs shut down, the agency floated a \$90 million bond issue to promote homeownership, with \$15 million targeted to distressed areas of the state, and most of the money dedicated to first time home buyers purchasing homes below specified price levels./49\ These efforts, with appropriate rules and goals, could affect residential and school segregation for some families and neighborhoods.

Massachusetts and Michigan

Massachusetts and Michigan housing projects have had explicit integration goals and procedures. In the 1981 fiscal year the Michigan State Housing Development Authority was responsible for the development of 3520 units of rental housing and for about 1800 home mortgages./50\ By mid-1978 the Massachusetts agency reported that its actions had stimulated development of 37,182 units, enough to house the population of a good size city, under policies emphasizing mixed income developments and giving bonus points to proposals that initiated or reinforced racial integration. Thirty-eight percent of the units were for low income households./51\

Maryland

Maryland attempted to take advantage of strong development situations by requiring developers to provide some low and moderate income rentals without federal subsidies. The Maryland Community Development Administration responded to the Reagan cutoff of Section 8 subsidies by requiring owners of three new apartment complexes constructed with low interest state bond money to set aside a fifth of their units for Section 8

eligible families at low rents, regardless of availability of a federal subsidy, and to reserve another ninth of the units for moderate income families./52\

California

California attempted to leverage regulation of land use in highly desirable areas to provide low or moderate income housing. California regulators in charge of development in coastal zones adopted such a policy to force provision of relatively low cost units. Thousands of units of "affordable" housing were built. The state also developed a "model inclusionary zoning ordinance" enabling local governments to require inclusion of low cost units in any substantial development. Developers got not only permission to build, but a density bonus in return for providing at least a fifth of the units to families below the ceiling for Section 8 eligibility./53\

California, New York, Minnesota, Massachusetts And Public Pension Funds

A major recent development in state housing policy has been the provision of public pension funds for investment in the mortgage market. Given the extremely severe problems of housing finance institutions in the early eighties, the housing market was in great need of additional sources of capital. Because of state rules governing permissible investments for state and local public employee pension funds, this important source of funds was unavailable. A number of states, including such leading innovators as California, New York, Minnesota, and Massachusetts changed their investment policies. With assets of \$203 billion by 1981 and rapid increases in prospect, the availability of money from these funds could have a massive impact on financing both development and home ownership. Several states entered the secondary mortgage market, buying "pools of mortgages from local banks, thus replenishing the pool of capital available from local banks for home mortgages."/54\ In some states special provisions were adopted to make favorable mortgages from these funds available to state employees. This was another important potential source of state influence on housing patterns.

The Potential

The potential range of state housing actions is vast. State agencies could, for example, engage in land banking, purchasing and holding low cost land in the path of development to keep open the option of building subsidized or affordable housing without major difficulties in site acquisition. Some state housing agencies already have the power to do this./55\ They might deal with two of the key cost factors simultaneously by offering state mortgage funds to localities which use their community development funds to subsidize land costs for building homes for lower income groups.

Snob Zoning

States can prohibit or regulate exclusionary suburban zoning and authorize housing agencies to operate across municipal boundary lines. State Supreme Courts in New Jersey and Pennsylvania have issued sweeping decisions against suburban exclusion. In January 1983 the New Jersey Supreme Court issued a far-reaching decision, Mt. Laurel II,/56\ which required local governments to take positive steps to permit low cost or subsidized housing, including mobile homes, to be constructed in areas which excluded the poor and low income. The decision of the New Jersey Chief Justice, Robert Wilentz, noted:

The state controls the use of land, all of the land. In exercising that control it cannot favor rich over poor. It cannot legislatively set aside dilapidated housing in urban ghettos for the poor and decent housing elsewhere for everyone else./57\

The Massachusetts legislature in 1969 enacted an "anti-Snob Zoning" law with a procedure permitting the state to overrule suburban zoning laws./58\ A number of states set up housing authorities with jurisdiction into surrounding unincorporated areas. The Minnesota state legislature authorized the Metropolitan Council "to operate as a Metropolitan Housing and Redevelopment Authority throughout the seven-county metropolitan area" of Minneapolis-St. Paul, subject to the agreement of the municipalities concerned. Many did sign agreements for implementation of the Section 8 rental program across municipal lines./59\

Even a cursory review of state activities that affect housing opportunities is sufficient to show that much is left to be done. Although there have been few sustained efforts to develop leadership at the state level, a

number of useful ideas and experiments are already in progress. With serious attention to this issue and a strong emphasis on the importance of these efforts in reducing the school desegregation burden, the record will doubtless improve.

Potential Legal Liability

In desegregation matters, action has often been stimulated by contemplation of possible judicial intervention. State officials planning to undertake the difficult tasks in the housing area should consider the possibility that failure to do so could well lead to intervention by the courts which could be far more costly, both in terms of money and loss of agency control under court orders.

State housing officials would do well to consider the experience of state boards of education in this regard. Most state education officials attempted to treat educational segregation as a local issue when plaintiffs have tried to have them designated as parties to school cases. In 1977, however, the Supreme court strongly supported an expansive order directing the state of Michigan to pay the costs of major components of the educational part of the Detroit desegregation plan. Since then, there have been orders against state governments in cases in several other states. California has signed an agreement on financing as part of a settlement of the San Francisco case recently approved by a Federal District Court. A series of far-reaching orders against the state of Missouri in the St. Louis litigation show that the duties imposed on a state and its school authorities can go far beyond financial orders to include plans for inter-district transfers, desegregation or area vocational schools, and other issues./60\ A number of other cases are pending on this issue and it is likely that there will be an effort to make the state a party in all major desegregation cases in the future.

Other pending litigation shows that there may be serious efforts to create similar obligations for state housing agencies. Memphis plaintiffs, suing over segregation of subsidized housing, for example, named the state housing agency as a party./61\ In the St. Louis school litigation, the St. Louis school district and the NAACP have sued state housing officials as part of their effort to gain inter-district school and housing remedies./62\ Though there have been few developments in the law on this issue, state housing authorities are, of course, under the same constitutional obligations as

local housing authorities. Clearly, state officials face serious problems if they administer their programs in ways that foster segregation.

GETTING THE ISSUE ON THE STATE AGENDA

There is little likelihood that the overt question of school integration through residential integration will receive serious consideration without new incentives. During a period in which there is no significant public pressure on these issues, state leaders are inclined to ignore them.

Research sponsored by HUD analyzing state level urban policy statements in the late 1970s shows, for example, that in the ten states studied there was virtually no mention of segregation or other civil rights issues. Planning tended to ignore regional approaches needed to address housing issues and to exclude the regional planning agencies and councils of governments operating at the metropolitan level. Nor did the states like the idea of concentrating resources in poor central cities. States placed priority on economic development, and assumed that development anywhere in the state would help everyone. Such policies could result, for example, in state tax and other subsidies for businesses moving from central cities to suburbs and small towns./63\ Most states, strongly preoccupied with economic and budget problems are not likely to act unless some agency moves to put the issue in the spotlight.

State School Officials and Coordination

The one powerful institution within state government that has a clear and continuing interest in pursuing housing policies that support integrated education is the state board of education. State boards often must, for example, pay the cost of transporting children from segregated housing projects with segregated neighborhood schools to distant schools so children can attend integrated classes. If state educational authorities are held responsible for dealing with the problems and expense of urban desegregation, they must, in effect, pay for the sins of housing officials. Therefore, when housing officials continue to build segregated housing or administer subsidy programs in ways that concentrate minority families or resegregate integrated neighborhoods, school officials must deal with the problem of resurgent segregation by redrawing a

desegregation plan, disrupting more communities, and perhaps increasing transportation.

State school officials have much to gain by asking for help from housing and other offices. Housing integration has more support than student reassignment plans and such requests can accurately be presented as alternatives to additional busing and additional disruption.

The process of developing coordinated policies can be initiated by requests for assistance from state school officials to the governor, state civil rights agencies, and housing, planning, and community development officials. State school officials can provide data on the costs of inaction by informing these agencies of existing segregation trends, the existing legal situation, and the potential liability of state government. This can be accompanied by lists of subsidized family housing within the relevant metropolitan areas and the racial occupancy pattern of 1980, when HUD last collected data. HUD offices and some regional planning or council of governments offices can provide a good deal of this data for school officials.

Although governors may perceive no political gain and significant risks from leadership on this issue, such leadership need not be damaging and could turn into a political asset. Three parts of what needs to be done are, in fact, easily defended. Most people are in favor of actions (1) to diminish the necessity for busing, (2) to reduce the burden of litigation and court order costs on state taxpayers, and (3) to prevent resegregation of integrated neighborhoods. These are important justifications for coordinated urban civil rights and urban policies.

The initial planning process and a number of the needed policy changes would not be highly visible or controversial. Indeed, there would doubtless be much to learn from those states which have already implemented some features without disruption. Other issues would, of course, be highly controversial. Even with regard to the controversial issues, the political risks and gains are not easy to estimate. During the Southern school desegregation conflict, for example, the great majority of southern political leaders opposed the courts but it was often those who supported civil rights in difficult times who became important regional and national leaders, such as Lyndon Johnson, Jimmy Carter, Reubin Askew, and others. Even when people do not want to change they often know that something is seriously

wrong, know that something will have to be done sometime, and respect leaders who tell uncomfortable truths.

A strong leader will address fundamental problems of urban communities in a highly urbanized society. Residential and educational segregation and a continually expanding ghetto are fundamental problems of our society. Residential separation and traumatic racial transition of communities have costs, among them segregated education. Dealing with the consequences of this process only through the schools and only under court order is difficult, expensive, divisive, and ultimately unsatisfying. It is also inefficient, particularly when the courts must continuously deal with new consequences of new decisions about housing and community development. Stably integrated communities with naturally integrated schools are preferred by a great many citizens. Leaders who made some practical suggestions about how to foster that goal might be surprised by the response.

In states where a governor has been unwilling to provide leadership, education officials could directly approach relevant agencies, or attempt to enlist the support of civil rights agencies and attorney generals' offices. In those states with reasonably strong civil rights laws and regulations and reasonably well-staffed civil rights agencies, education leaders may find very useful supporters, while adding an important dimension of expertise to the discussions. Finally it would be beneficial to obtain rulings from state legal authorities about the responsibility of housing and development agencies under state and federal laws and constitutions to consider the racial implications of their actions.

The Issues for Coordination

The first step is simply one of examining what the various agencies are doing where it affects residential patterns, and relating those actions to the consequences for schools. One simple but effective tool is mapping--showing school populations by race and overlays showing the location and characteristics of tenants of subsidized housing. Maps showing areas of racial change and recent or planned housing developments can reveal some of the possibilities for positive or negative influence on the school situations and stable residential integration.

Analysis of the demographics of public school enrollment by race and school district within each metropolitan area and a projection of those trends will show some of the basic difficulties facing school authorities and the areas in which there could be positive impacts from housing policies. Examination of stably integrated school areas, on the other hand, show places where there should special policies to preserve integration and careful avoidance of housing decisions that would be destabilizing.

Many of the possible state policy initiatives have already been discussed. Preferences, set-asides, counseling, and other mechanisms can produce positive impacts when made a part of home mortgage programs, subsidized housing, or state pension fund investment in the mortgage market. State planning offices can cooperate with regional planning agencies in planning for dispersion of low income housing. State legislatures or state courts can and should limit the exclusionary zoning powers of suburbs. State civil rights or housing agencies can operate fair housing centers designed to encourage families to consider possibilities that might otherwise be unknown to them.

A well-staffed state housing office, enforcing a strong law with strict penalties, is another useful element in any sound state-wide strategy. Any such office should have power to test and initiate enforcement on the basis of tests. These offices should concentrate particular attention on widespread problems such as "steering" -- matching a customer to a neighborhood by race by real estate agents -- which tends to resegregate entire communities in a relatively few years. Such steering into particular school district should be even more carefully watched. State real estate authorities should lift licenses of severe offenders. Employment practices of housing industry firms should be closely monitored.

With regard to broader policies, state land use regulation, major state infrastructure investments, state economic development policies, and many other decisions have effects on the racial future of communities and their schools. Similarly, there are many school decisions that can disrupt or assist neighborhoods. The Maryland State Board of Education, for example, in two inconsistent decisions, recently overruled the decision of a District of Columbia suburb to close integrated schools, but rejected the appeal of parents from the only naturally integrated school in Baltimore County when their school was scheduled for closing./64\ Housing and civil rights agencies could help school authorities develop clear policies on such

issues. With better information on the consequences of their policies, both sets of agencies could reconsider regulations and priorities for federal block grants in education, community development, and other federal programs. With serious planning by knowledgeable experts from various branches of state government, many other possibilities would emerge.

Of course, no one should expect a panacea. Even under ideal conditions, the extent of existing segregation is so vast and the roots so deep that change will only come gradually. The reduction of the burden on school officials will be slow and undramatic. The alternative, however, is to do nothing or be slow and reactive.

FOOTNOTES

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